

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL NO. 1:06CV131

VIRGINIA GREELEY, Executrix of the)
Estate of Paul J. Greeley; and)
VIRGINIA GREELEY,)
Plaintiffs,)
Vs.)
AUTO-OWNERS INSURANCE CO., a)
Michigan Corporation, and)
BLACKWELL CONSTRUCTION, INC.,)
a South Carolina Corporation,)
Defendants,)
And)
AUTO-OWNERS INSURANCE CO., a)
Michigan Corporation,)
Defendant and)
Third-Party Plaintiff,)
Vs.)
BLACKWELL CONSTRUCTION, INC.,)
a South Carolina Corporation;)
JERRY BLACKWELL, and wife,)
SANDRA BLACKWELL,)
Third-Party Defendants.)

MEMORANDUM
AND ORDER

THIS MATTER is before the Court on the Magistrate Judge's Second Memorandum and Recommendation, filed January 4, 2008.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On January 4, 2008, the Magistrate Judge filed a Second Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendant and Third-Party Plaintiff's motion for summary judgment. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on January 22, 2008. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current

case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that Defendant and Third-Party Plaintiff's motion for summary judgment be allowed.

IT IS, THEREFORE, ORDERED that the motion of Defendant and Third-Party Plaintiff Auto-Owners Insurance Co., for summary judgment is **ALLOWED**. A Declaratory Judgment is filed herewith.

Signed: January 25, 2008



Lacy H. Thornburg
United States District Judge

